IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.847 OF 2004

C.K.Mehra .. Appellant

Versus

Suresh Enterprises & Ors. .. Respondents

Mr.K.D.Shah for appellant

Mr.A.K.Chauhan for Respondents

WITH

APPEAL FROM ORDER NO.835 OF 2004

Champabai Chatrabhuj Asher & Ors. ..Appellants

Versu

C.K.Mehra and Anr. ..Respondents

Mr.U.J.Makhija i/b Amit Shroff for appellants

Mr.K.D.Shah for Respondents

CORAM : P.V.KAKADE, J.

DATE : 28TH SEPTEMBER, 2004

P.C.:

1. Heard the learned counsel for all the parties concerned.

2. Rule. Rule made returnable forthwith.

3. Both these appeals are filed against the Order of the City Civil Court Mumbai dated 19.7.2004 in Notice of Motion No.4858 of 2003 in S.C.Suit No.3081 of 2001.

. After hearing both the parties for some time the order of the Lower Court needs to be modified to the extent that it shall be upheld only with regard to continuation of Court Receiver High Court Bombay in respect of suit property i.e. Flat No.503, Ronak Apartment, now known as Shreeji Tower, Junction of Fourth and Fifth Rajawadi Road, Ghatkopar (E), Mumbai-400 077. The Appellant in A.O.No.847 of 2004 has come with the case that he should be appointed as the

agent of the Court Receiver without any royalty as against that the Appellant in A.O.No.835 of 2004 has come with the case that he is the owner of the property and therefore, has right to restoration of possession of the property. Respondent is the developer and builder, who sought to raise contention to the effect that both the Appeals are not maintainable, as they are against the appointment of the Court Receiver. However, that contention would not be justified. In view of the fact that impugned appeals are not against the appointment of the Court Receiver but the impugned order dated 19.7.2004 regarding continuation of the Court Receiver with imposing certain conditions. Be as it may, the facts remains that all the parties to maintain status quo with regard to the suit property pending the suit in the Lower Court, of which the hearing is to be expedited.

4. In view of these facts and circumstances the Order dated 19.7.2004 stands set aside. It is hereby directed that the property in question shall remain with the Court Receiver pending the suit in the Lower Court. The Lower Court shall expedite the hearing of the suit and at any rate shall dispose of it by the end of April 2005

after giving opportunity to all the concerned parties to lead the evidence before the Lower Court.

5. With these directions the Appeals stands disposed of with no order as to costs.

6. It is clarified that the order allowing the amendment of the Plaint stands good in law.

Certified copy expedited.